IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7292 OF 2007

Darshan Singh L. Bhatia... Petitioner

versus

State of Maharashtra & ors..... Respondent.

Shri P.C.Kansara i/b. Kansara & Thanekar for the petitioner.
Shri S.K.Chinchalikar AGP for respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 01ST OCTOBER, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. On an application moved by the petitioner for renewal of licence, the respondent no.3 issued a show cause notice as to why the licence should not be suspended for 30 days. The petitioner replied the show cause notice and after considering the same the third respondent passed the impugned order on 7-9-2007 directing suspension of the police licence bearing No. 49/2001 for a period of 30 days. The impugned order further recites that if the petitioner is aggreived by the aforesaid order, he may appeal to the Government within 30 days from the receipt of the order, and if

the petitioner wishes to keep the establishment closed for a continuous period of 30 days, the petitioner is expected to intimate the local police station about his option one day in advance.

3. It is the case of the petitioner that the order dated 7-9-2007 was received by him on 11-9-2007 and he filed appeal before the State Government on 17-9-2007. The greivance of the petitioner is that no orders on the said application are passed though a period of about 13 days have lapsed. The order of suspension would thus operate on 11-10-2007. The learned counsel for the petitioner submits that the right of appeal would be rendered negatory if the impugned order is not stayed as the State Government has yet not heard the stay application. This petition has been filed being aggrieved by the in-action on the part of the State Government in deciding the stay application, when the suspension order would come into operation on 11-10-2007. The learned counsel has placed reliance on a judgment rendered by a Division Bench of this court in **W.P.No. 4393/03 so also in W.P.No.8502/03** with connected bunch of petitions, wherein pending decision of the stay applicaiton the impugned order has been stayed. As under the act the impugned order is made appealable and as period of 30 days is prescribed for filing of the appeal, it is but natural

that orders on the stay application are expected to be passed before the order operates. In the present case though the appeal and the stay application has been filed on 17-9-2007, the stay application has not yet been heard and hence no order is passed.

4. In this view of the matter leaving all questions open, I direct the State Government to decide the stay application filed by the petitioner within a period of four weeks from today and till then the impugned order passed by the respondent no.3 dated 7-9-2007 shall remain stayed. Rule made absolute in the above terms.

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